

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:05-CR-163

HON. ROBERT HOLMES BELL

ROBERT PORTER,

Defendant.

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MEMORANDUM OPINION AND ORDER

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #1029). On April 8, 2008, a Report of Eligibility was issued by the Probation Department that indicated defendant appeared to be ineligible for consideration o modification of sentence. Defendant has not filed an objection to the Report of Eligibility within the time-frame established by procedures promulgated by the United States District Court for the Western District of Michigan.

It appears from a review of the original criminal file that defendant was sentenced pursuant to a Superseding Felony Information charging him with Conspiracy to Distribute and Possess with Intent to Distribute an Unspecified Quantity of Marijuana contrary to 21 U.S.C. §§846, 841(a)(1), and (b)(1)(D).

Eligibility for consideration under 18 U.S.C. §3582(c)(2) is triggered only by an amendment listed under Sentence Guideline §1B1.10(c). Because there is no listed amendment lowering the guideline range for marijuana, defendant is not eligible for sentence modification.

ACCORDINGLY, defendant's motion is hereby **DENIED**.

DATED: July 11, 2008

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE